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13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 IN RE CATHODE RAY TUBE  
16 (CRT) ANTITRUST  
17 LITIGATION

18 This Document Relates To All  
19 Actions

No. CV-07-5944-SC  
MDL No. 1917

**State of Illinois' Motion to Intervene**

Date: May 4, 2011  
Time: 2:00 PM  
Court: Two Embarcadero Center, Ste. 1500  
Judge: Hon. Charles A. Legge (Ret.)

20 **NOTICE OF MOTION AND MOTION TO INTERVENE**

21 PLEASE TAKE NOTICE that on May 4, 2011, at 2:00 pm or as soon thereafter as the  
22 matter may be heard, the State of Illinois, through its Attorney General, will present this  
23 Motion at Two Embarcadero Center, Ste. 1500, San Francisco, California, before the  
24 Honorable Charles A. Legge (Ret.).

25 This motion is brought pursuant to F.R.C.P. 24(a) and (b) for an order granting the State of  
26 Illinois permission to intervene in this action for the limited purpose of opposing the Motion for  
Preliminary Approval of Class Action Settlement with Defendant Chunghwa Picture Tubes,  
Ltd. to the extent it purports to release damages claims of Illinois indirect purchasers.

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. Facts

The Illinois Attorney General is investigating whether certain of the defendants in this action have violated the Illinois Antitrust Act.<sup>1</sup> The Illinois Antitrust Act provides that only the Illinois Attorney General may bring an action for damages on behalf of indirect purchasers.<sup>2</sup> As a result, the private class plaintiffs cannot adequately represent the antitrust damages claims of Illinois indirect purchasers. Nevertheless, the indirect-purchaser plaintiffs (“IPPs”) now ask this Court to approve a settlement which purports to release those claims.

### II. Argument

The State of Illinois seeks to intervene to oppose the proposed settlement between the IPPs and Chunghwa Picture Tubes, Ltd. to the extent the settlement purports to release damages claims of Illinois indirect purchasers. This Court should allow Illinois to intervene (1) as a matter of right under Federal Rule of Civil Procedure 24(a), and (2) permissively under Rule 24(b).

Rule 24(a) allows a person to intervene in an action as a matter of right.<sup>3</sup> In the Ninth Circuit, a third party may intervene as of right by showing “timeliness; an interest relating to the subject of the action; practical impairment of the party’s ability to protect that interest; and inadequate representation by the parties to the suit.”<sup>4</sup>

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<sup>1</sup> 740 Ill. Comp. Stat. § 10/1 *et seq.*

<sup>2</sup> 740 Ill. Comp. Stat. § 10/7(2).

<sup>3</sup> F.R.C.P. 24(a).

<sup>4</sup> *Idaho Farm Bureau Fed'n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995); *see also Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 527 (9th Cir. 1983); *LG Electronics Inc. v. Q-lity Computer Inc.*, 211 F.R.D. 360, 366 (N.D. Cal. 2002). *LG Elecs. Inc. v. Qlity Computer Inc.*, 211 F.R.D. 360, 366 (N.D. Cal. 2002).

1       The State of Illinois meets the criteria for intervention as a matter of right. Illinois raised its  
 2       objections and filed its motion to intervene at the earliest practical time after learning that the  
 3       private plaintiffs were seeking to release the indirect-purchaser claims of Illinois' residents.  
 4       The Illinois Attorney General is designated by the state legislature as the only party authorized  
 5       to pursue and recover indirect-purchaser damages on behalf of the state's residents. The private  
 6       plaintiffs lack standing to pursue such claims as a matter of law. Finally, releasing all of Illinois  
 7       citizens' indirect-purchaser claims could deny them their lawful recovery for antitrust damages.

8       This Court should permit Illinois to intervene under Rule 24(b), as well. Rule 24(b)  
 9       permits a person to intervene in an action who "has a claim or defense that shares with the main  
 10       action a common question of law or fact."<sup>5</sup> Generally, permissive intervention requires: (1) an  
 11       independent ground for jurisdiction; (2) a timely motion; and (3) a common question of law or  
 12       fact between the person's claim or defense and the main action.<sup>6</sup>

13       The State of Illinois meets the criteria for permissive intervention. This court has  
 14       jurisdiction over the class settlement. Illinois raised its objections and filed its motion to  
 15       intervene at the earliest practical time after learning that the private plaintiffs were seeking to  
 16       settle the indirect purchaser claims of Illinois' citizens. The State seeks to intervene as the  
 17       exclusive lawful representative for the indirect-purchaser damages claims and to protect those  
 18       claims for its citizens, as intended by the state legislature.

### 19       **III. Conclusion**

20       The State of Illinois asks this Court to grant it leave to intervene in this action for the  
 21       purpose of opposing the proposed settlement class and to ensure that the rights of Illinois  
 22       residents are adequately protected.  
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24       <sup>5</sup> F.R.C.P. 24(b)(1)(B).  
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26       <sup>6</sup> *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 473 (9th Cir. 1992).

1 DATED: April 27, 2011

Respectfully submitted,

2  
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Attorney General of Illinois

4  
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